

REMARKS

Review and reconsideration of the non-final Office Action mailed November 4, 2009 (the "Office Action"), is respectfully requested in view of the following remarks. This Amendment is accompanied by credit card authorization for the Commissioner to charge the \$65 small entity fee for a retroactive one month extension of time. Although no additional fees are believed due, the Commissioner is hereby authorized to charge any deficiency or credit any surplus to Deposit Account No. 14-1437.

At the time of the Office Action, claims 30, 32-38 and 40-52 were pending with claims 30, 32-38 and 40-42 being drawn to an elected invention. In the Office Action, claims 35 and 41-42 are indicated as being drawn to allowable subject matter, while claims 30, 32, 34, 36-38 and 40 are rejected under one or more of 35 U.S.C. §102, 35 U.S.C. §103(a), and 35 U.S.C. §112, second paragraph. By this Amendment, claims 30, 40, 43-50 and 52 are amended and claim 35 is cancelled. No new matter is added.

The amendments presented herein have been made solely to expedite prosecution of the instant application to allowance and should not be construed as an indication of Applicant's agreement with or acquiescence to the Examiner's position. Accordingly, Applicants expressly maintain the right to pursue broader subject matter through subsequent amendments, continuation or divisional applications, reexamination or reissue proceedings, and all other available means. The rejections and responses thereto are set forth fully below.

Claim Rejections – 35 U.S.C. §112, Second Paragraph

In the Office Action, claim 40 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. In particular, the Examiner asserts that the phrases "low roughness" and "relative smoothness" are indefinite. By this Amendment, claim 40 is amended to eliminate both of the cited phrases. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claim Rejections – 35 U.S.C. §102 and 35 U.S.C. §103(a)

In the Office Action, claims 30 and 32 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 6,322,556 issued to Gwon *et al.* (hereinafter “Gwon”); and claims 30, 32, 34, 36-38 and 40 are rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent Application Publication No. 2005/0107773 by Bergt *et al.* Amended claim 30 includes the subject matter of claim 35, which was not subject to either rejection. Accordingly, Applicants respectfully request that the rejections based on Gwon and Bergt be withdrawn.

Request for Rejoinder

The allowed claims are drawn to a method for the treatment of an eye lens. The withdrawn claims are drawn to a controller including electronically executable instructions for performing the same method. Thus, claim 43 has been amended to include all method steps set forth in claim 30. Accordingly, Applicants respectfully request rejoinder of withdrawn claims 43-50 and 52. MPEP 821.04, *et seq.*

Applicants’ representative, Gregory M. Lefkowitz, has left several messages for the Examiner regarding this issue. These messages have not been returned. Accordingly, Applicants respectfully request that the Examiner contact Applicants’ representative should the Examiner wish to discuss rejoinder.

Conclusion

For at least the reasons set forth above, the independent claims are believed to be allowable. In addition, the dependent claims are believed to be allowable due to their dependence on an allowable base claim and for further features recited therein. The application is believed to be in condition for immediate allowance. If any issues remain outstanding,

Applicant invites the Examiner to call the undersigned (561-847-7806) if it is believed that a telephone interview would expedite the prosecution of the application to an allowance.

Respectfully submitted,

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